

**From:** Kelly  
**To:** Microsoft ATR  
**Date:** 1/9/02 9:00pm  
**Subject:** Proposed settlement ICO U.S. v. Microsoft

Dear Sir or Ma'am,

The proposed settlement, in my view, does not punish Microsoft. Indeed it strengthens them. Please allow me to illustrate this:

(a) The proposed settlement provides Microsoft with the sole legal license to determine who shall be considered a business. This does not at all bode well for organizations who write programs under the Gnu public license. As no actual financial instrument changes hands, Microsoft could state that a business/organization which operates under the Gnu public license is, according to Microsoft, not a business at all. As such, Microsoft is not required to provide technical details of their middle ware, etc.

(b) As the settlement is to, at least purportedly, punish Microsoft for their - proven - monopolistic practices, nowhere in the proposed settlement is the requirement to, if you will, force the consumer during installation of the operating system to make certain choices. Choices pertaining to which web browser to have installed. Which e-mail program to have installed and on and on. And, even if there were, there is no requirement that there be no default settings. That would be counter to the intent and purpose of the settlement.

(c) Since there is very little competition against Microsoft, how can there be as Microsoft has a - proven - monopoly, the products which Microsoft ships are by any reasonable standard quite poor. Security holes and patches that don't work are just two examples of many. This traditional shipping of poor products has cost consumers and businesses alike - billions - of dollars annually. Without competition there is no reason to improve a company's product line. Yet I can not find within the proposed settlement any protection for consumers or businesses which are using Microsoft products. There is no change to the current "End User License Agreement" which would provide businesses and consumers alike with a legal remedy (standing) should their system(s) be attacked by a virus, worm, cracker, etc. Furthermore, there is no legal remedy (standing) should a Microsoft product - cause - a business or consumer injury to their computer or files. An example of this is upgrading from Windows 98 to Windows 98SE and Windows 98SE fails to shut down properly due to Microsoft's willful - failure - to maintain device driver databases from previous editions of Windows. Consequently, a business or consumer either has to upgrade hardware or have their computer(s) crash on a daily basis. In short, there needs to be remedy for the consumer and business users of Microsoft products.

(d) Consumers should have the - choice - of operating systems when purchasing a new computer. Consumers should not be stuck with "comes with Windows [pick a flavor]." Hence, Microsoft should be forced to pull their operating systems from manufacturers. This would give consumers a choice in the matter.

Thank you for your time.

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/s/Mr. Kelly Prince